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SENATE

REPORT
No. 93-1081

FEDERAL EMPLOYEES' COMPENSATION AMENDMENTS OF 1974

AUGUST 8, 1974.—Ordered to be printed

Mr. WILLIAMS, from the Committee on Labor and Public Welfare,
submitted the following

REPORT

[To accompany H.R. 13871]

The Committee on Labor and Public Welfare, to which was referred the bill (H.R. 13871), to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

INTRODUCTION AND BACKGROUND

Almost fifty-eight years ago, the Congress recognized the need for compensating Federal employees who become injured or disabled in the course of their employment. In 1916, the Federal Employees' Compensation Act (FECA) was born, and a system was established to provide for the delivery of disability benefits.

The FECA was last amended in 1966. Since that time, there has been a growing awareness and interest in the field of workers' compensation generally. Such attention is welcomed, but is long overdue.

As a result of a requirement contained in the Occupational Safety and Health Act of 1970 (Public Law 91-596), a study was commissioned to review the adequacy of existing provisions of the various State workers' compensation programs. When the comprehensive findings of the National Commission on State Workmen's Compensation Laws were released in July 1972, the public was made aware of the many inequities and inadequacies which the existing systems had been allowed to foster. Although the National Commission focused its attention on State systems, many of its recommendations were found applicable to deficiencies in the program administered for Federal employees, and have been incorporated into this bill.

It is essential that injured or disabled employees of all covered departments and agencies, including those of the United States Postal Service, be treated in a fair and equitable manner. The Federal Government should strive to attain the position of being a model employer. Enactment of these amendments will do much to achieve that goal.

LEGISLATIVE DEVELOPMENT OF THE BILL

In June, 1973, H.R. 9118, a bill to amend FECA was introduced by Congressman Daniels, and referred to the House Education and Labor Committee's Select Subcommittee on Labor. Hearings were held on September 5, 6, 11, and 12, 1973. As a result of the information gathered at the hearings, and after further consultation with representatives of Federal employee organizations and Executive agencies, the Select Subcommittee on Labor reported unanimously H.R. 9118 with amendments to the Full Committee on Education and Labor on March 14, 1974. On April 3, 1974, the House Education and Labor Committee accepted H.R. 13871 as a substitute for H.R. 9118, and favorably reported it on April 3, 1974 by a unanimous vote. The bill was passed by the House of Representatives on May 9, 1974.

H.R. 13891 was referred to the Senate Committee on Labor and Public Welfare on May 8, 1974. After review and evaluation by the Senate Subcommittee on Labor, provisions of the House-passed bill were adopted with several technical and clarifying amendments, together with four new provisions described below.

The bill, H.R. 13871, was reported favorably by unanimous vote of the Labor Subcommittee on July 29, 1974, and unanimously ordered reported favorably by the full Committee on Labor and Public Welfare on August 1, 1974, after adding a provision defining the coverage of certain professional services.

The Department of Labor, through its testimony in support of this legislation during hearings in the House, has expressed the Administration's strong interest in rationalizing compensation benefits and improving the administration of the Act. The Department has accordingly expressed acceptance of the Committee's improvements and other modifications of H.R. 13871.

SUMMARY OF PROVISIONS

H.R. 13871, as passed by the House, contains some twenty-seven changes to the existing law. The principal provisions of the bill will: provide for a continuation of full pay for up to 45 days where the employee's claim is not controverted, and the disability is related to traumatic injury; guarantee the right of an employee to return to his or her former or equivalent position within 1 year; allow compensation of up to 312 weeks for an impaired external or internal organ not specified by the statutory schedule; adjust the Consumer Price Index computation to make it more responsive to cost of living increases; and make certain groups, previously excluded, eligible for cost of living compensation increases.

Further, the bill will reallocate additional benefits to surviving spouses by increasing their share generally by 5%; allow freedom of choice of either private physician and hospital, or Federal medical personnel and facilities; permit a partially disabled worker to enter vocational rehabilitation program without loss in benefits; provide

additional compensation for wives with dependent husbands; increase the monthly allowance for the service of attendants for disabled workers from \$300 to \$500; eliminate the requirement for Federal review of benefit levels where participants reach age 70; permit employees or survivors to receive benefits from both VA and FECA as long as the claim is not for same injury; reduce from 21 to 14 days the minimum length of disability required to waive the exclusion of compensation for the first 3 days of disability; lengthen the time for notice of injury from 48 hours to 30 days; permit Federal agencies to obtain claims forms directly from the Government Printing Office rather than the Department of Labor; extend the statute of limitations from 1 to 3 years; expedite procedures for the recovery of benefits by the Federal Government in case of third party liability; permit death benefits to exceed the monthly pay of the deceased employee if the excess is created by authorized cost-of-living adjustments; provide \$200 to the representative of the deceased employee to cover administrative costs necessary to terminate the decedent's status as a Federal employee; permit the Secretary to discharge compensation liability by lump sum payment if the monthly payment is under \$50 (formerly \$5); provide for the use of improved actuarial tables; and require the United States Postal Service to contribute to the employees' compensation fund with respect to administrative costs.

The Committee amendments will expand the Act's coverage to include Federal employees serving as grand and petit jurors; will increase the Act's compensation rate for Head of Household Peace Corps Volunteers to that of Volunteer leaders, and will add a provision to enable employees to be compensated for damaged prosthetic appliances and devices. The Committee has also redefined the term "physician" and "medical services" to include, in addition to podiatrists as added by House, dentists, clinical psychologists, optometrists, and specified services of chiropractors.

The bill requires the Secretary of Labor to make a comprehensive study of the Federal Employees Compensation Program, and to submit a report with recommendations to the Congress within twelve months of enactment.

EXPLANATION OF MAJOR PROVISIONS

Continuation of pay

Section 11 of the bill authorizes the employing agency to continue payment of an employee's pay where the employee files a claim under the Act related to a traumatic injury. This section provides that the pay shall continue, unless the claim controverted, for a period of up to 45 days under accounting procedures and regulations promulgated by the Secretary of Labor.

Under current law, compensation is paid from the date wage loss begins, subject to the statutory waiting period; however, notice of injury and claim forms must be submitted for review and adjudication by the Secretary of Labor before payment is certified to the U.S. Treasury. Consequently, the employee suffers a delay in income.

According to the General Accounting Office report, "Need for a Faster Way to Pay Compensation Claims to Disabled Federal Employees" (B-157593 of November 21, 1973), this delay averages from 49 to 70 days, with the time it takes for the necessary reports and

claim forms to arrive at the Department of Labor from the agencies comprising two-thirds of this delay.

The Committee finds that such a delay creates severe economic hardship on the injured employee and his or her family, and causes difficult administrative problems for the Secretary of Labor and the employing agencies. Numerous complaints of delays in payment must be reviewed and processed, thereby causing further delays in other cases.

Continuation of pay in cases of traumatic injury will eliminate this delay for the great majority of compensation cases.

The committee wishes to make clear that any amounts paid to employees under this section shall be treated as income which is neither excludable in computing adjusted gross income, nor exempted under any other provision of the Internal Revenue Code of 1954, as amended. The intent is not to increase the amount of net income for the period immediately following the filing of a claim related to work-connected traumatic injury, but to eliminate interruptions in the cash flow for the employee.

In the event a claim is denied, the employee may utilize either accumulated sick leave, annual leave, or have an adjustment made to regular pay as an overpayment in accordance with existing law.

The Committee accordingly expects that the Secretary will provide technical assistance to the greatest possible extent to employing agencies, as well as the necessary internal post-audit and accounting procedures, so that the administration of Section 11 will fully meet the expectations and goals set forth by the Committee.

Civil Service retention rights

The bill assures Federal employees, including those of the United States Postal Service, who are injured on the job and receiving disability compensation, that during their period of disability they will incur no loss of benefits which they would have received absent the injury or disease. It permits an injured employee to return to his former or equivalent position if he recovers within one year from the date compensation begins or one year from recurrence of that same injury or disease. For those employees whose disability extends beyond one year, the employing agency or department is to grant priority in employment to the injured worker.

The committee does not intend to lessen any protection now available to injured or disabled Federal employees with regard to their reemployment rights.

The Committee also wishes to make clear that the Civil Service Commission is authorized to promulgate regulations covering the rights of employees whose injuries or disabilities are partially overcome, as well as those who have fully overcome their disabilities.

Expansion of medical services and facilities

The bill expands the Act's definition of "physicians" and "medical, surgical, and hospital services and supplies" to include dentists, clinical psychologists, optometrists, podiatrists, and chiropractors to the extent specified in section 1.

These new additional categories are a recognition of the need for specialized professional services which should be available directly to the disabled worker. Currently, such services are available only through referral by a treating or supervising medical doctor. A similar

provision covering clinical psychologists and optometrists has been enacted into law (P.L. 93-363) in connection with the Federal Employee Benefits program. The limitation on chiropractors with respect to spinal subluxation is similar to that contained in the Medicare provisions of the Social Security Act, as amended. The Committee expects that the Secretary will promulgate regulations with respect to reimbursement for chiropractic services, and will consult with the the Secretary of Health, Education, and Welfare, taking into consideration: studies of chiropractic services under Medicare and State workmen's compensation programs; the scope of such services as defined by the State statutes and regulations; and the qualifications necessary for X-ray interpretation of spinal subluxation.

Section 2 of the bill will permit injured employees a choice of physician from a designated panel, as well as the continued use of the available Federal facilities, if the worker so chooses. This freedom of choice is in accordance with the recommendations of the National Commission on State Workmen's Compensation Laws. Under existing law, an injured worker is required to make use of available U.S. facilities such as the Public Health Service and Veterans Administration hospitals, for medical services and may use private physicians designated by the Secretary only if the use of U.S. facilities is impracticable.

This expansion of medical services is a recognition by the Committee that injured workers desire a wider range of medical treatment, services, and facilities, and that Federal employees' compensation should allow such choice.

Addition to scheduled awards

Compensation for the loss of an arm, leg, foot, hand, eye, and so forth are specified in the present statute by relating the part of the anatomy injured to the number of weeks of allowable compensation. Loss, or loss of use, of an internal or unspecified external organ cannot now be compensated in this manner. If an employee suffers this type of loss due to a work related injury or disease, justice and logic require that he or she receive scheduled benefits. The bill adds a new subsection to the provision for scheduled awards, authorizing the Secretary to make payments of up to 312 weeks for such loss or loss of use. Although "heart, brain, and back" are specifically excluded from the definition of organ, the Secretary of Labor will be required to undertake a study as to how these excluded organs can be properly added to the scheduled provisions of the Act.

The Committee intends that any new schedules developed by the Secretary, pursuant to Section 5 of the bill, not include any organs already included within the Act's existing schedule of compensation.

Cost-of-living increases

Section 21 of the bill changes the method for adjusting compensation increases based on the Consumer Price Index by removing the two month waiting period currently required to follow a 3 percent rise in the price index for three consecutive months. Section 24 of the bill also corrects the unintentional exclusion of certain groups of beneficiaries from receiving the automatic cost of living increases provided by the 1966 Federal Employees Compensation Act amendments. It is the intent of the Committee to provide such increases notwithstanding any existing statutory maximums.

Compensation for damaged prosthetic devices

Under existing law no compensation is generally paid with respect to loss of personal property due to accident regardless of the fact that the same accident resulted in personal injury. Non-reimbursable personal property has included such items as artificial limbs and other prosthetic devices. The bill in Section 1 would amend the definition of the term "injury" to include damage to or destruction of medical braces, artificial limbs, and other prosthetic devices. It will require the government to compensate injured employees for work-related damage to artificial appliances or prosthetic devices. It is the Committee's intention that the employee suffering such damage be compensated for any time lost while such device or appliance is being replaced or repaired. A prosthetic device would be considered a part of the body for all intents and purposes of this Act, and the Secretary would be required to reimburse an employee for the loss or damage to such device if caused by an employment-related incident or series of incidents. However, damaged eyeglasses and hearing aids would be replaced or repaired only if the damage were related to a personal injury requiring medical services (although such personal injury need not necessarily be related to an injury of the eye or ear).

It is envisioned that a report from an appropriately qualified physician or prosthetic repair technician will be necessary to support any such period of wage loss, and that all appropriate temporary disability provisions of the Act would apply in the same fashion as if the loss/damage occurred to that part of the body which the prosthetic device replaced. The scheduled award provisions of the Act would not apply.

Redistribution of benefits to surviving spouse

The bill in Section 16 reallocates benefits to the surviving spouses by increasing their share generally by 5 percent. The present benefit ceiling of 75 percent of the deceased employee's earning is maintained; that is, the existing maximum a family may receive in the aggregate is unchanged.

The amendment will increase the benefits for a widow or widower without eligible dependent children from 45 to 50 percent. If the surviving spouse has a dependent child, the widow's or widower's share will be increased from 40 to 45 percent, with an additional 15 percent for each child up to a combined maximum total of 75 percent.

Extension of the statute of limitations

The bill would extend the period for filing from 1 to 3 years and eliminate the 5-year waiver provision. It is intended that the present provision in the law concerning latent disabilities, and the newly added section tolling the statute of limitations in cases of exceptional circumstances, will provide the worker the same protection afforded by the existing waiver provision without the attendant difficulties which had resulted in many otherwise meritorious claims not being paid. The provisions in Section 14 are intended to remedy this inequity.

Elimination of reduction of compensation at age 70

Under existing law, the Secretary is required to review and may reduce the compensation of beneficiaries under the Act at the time they reach age 70. Such a review takes into consideration the beneficiaries' right to retirement benefits and overall need for income.

It was apparently placed in the law in the belief that such persons have a decreased wage-earning capacity.

The Committee finds that such a review places an unnecessary burden on both the employees receiving compensation and the Secretary. Further, the fact that an employee reaches age 70 has no bearing on his or her entitlement to benefits and is considered discriminatory in the Committee's opinion. Section 8 of the bill will remove this onerous and distasteful task from the Secretary's responsibilities.

Vocational rehabilitation with full compensation

The bill would permit the Secretary of Labor to continue the compensation rate without reduction as an inducement for partially disabled workers to enter into approved programs of rehabilitation so that they may eventually return to work and leave the compensation rolls.

Present law requires a reduction in compensation when a Federal employee's disability changes from total to partial. This practice works a hardship on those workers who are enrolled, or who would like to enroll, in a vocational rehabilitation program. The Committee desires to see Section 3 of the bill used in a manner which promotes the concept of vocational rehabilitation to the maximum extent possible.

Waiting period

The present law provides that benefits will not be paid for the first 3 days of disability unless the disability persists for 21 days. The bill reduces the 21-day period to 14 days. Section 10 is consistent with that recommended by the National Commission on State Workers' Compensation Laws.

Receipt of other benefits

The bill in Section 9 permits employees or survivors to receive benefits administered by the Veterans Administration while receiving benefits under the Act as long as such payment is not for the same injury or death. It would also allow receipt of military retirement or retainer pay while receiving payments under the Act, subject to the limitations on receipt of dual compensation by retired officers contained in 5 U.S.C. § 5532.

If a Federal worker incurs a compensable job related injury, it is unfair to deprive the worker of these benefits solely because the individual is entitled to payments from other sources for different injuries or service. The employee's ability to receive compensation payments should be based upon the merits of his present claim.

Coverage of employees on Federal juries

Section 1 of the bill amends the Act's coverage to include all otherwise eligible Federal employees who are disabled, or killed while serving as Federal grand or petit jurors. The Committee intends by this provision to apply coverage on the same basis as if the juror were an employee on a special mission as part of his Federal employment.

The Department of Labor has rejected all such claims for compensation filed by Federal jurors regardless of their regular employment on the basis that Federal jurors do not come within the present statutory definition of Federal employees. The Committee believes that the existing situation is unfair to those who are performing such a vital and important civic duty.

Furthermore, the Committee recognizes, and concurs with, the resolution of the Judicial Conference of the United States, adopted March 1974, which calls for the coverage of all persons serving as Federal jurors. The Committee would urge that such action be considered in conjunction with the matter of Federal juror compensation now being studied by Senate Judiciary Committee.

Peace Corps volunteers

Since the time of the last amendment of the FECA in 1966, the Peace Corps has recognized a third category of volunteers, generally referred to as the Head of Household Volunteer (22 U.S.C. 2504(c)). A Head of Household Volunteer receives a readjustment allowance of \$125 per month, the same figure as a Volunteer Leader receives. However, at present he or she is compensated under the FECA for disability payments at the same rate as an ordinary Volunteer. It is the intention of the Committee to bring consistency in the application of disability benefits based on monthly earnings. Accordingly, Head of Household Volunteers shall be "deemed" in the same manner as Volunteer Leaders "to be receiving monthly pay" at GS-11 rates.

Federal employees' compensation study

In view of the continuing interest in improving workers' compensation at both the State and Federal level, the Committee believes that it is essential to conduct a broad-based review of the Federal Employees' Compensation Program to ascertain the direction and nature of any future changes in the enabling legislation.

This review should, at a minimum, encompass a study of the following:

1. The level and distribution of survivors' benefits in order to determine the most equitable method of providing compensation to the family of a deceased employee, including consideration of an approach based on a spendable earnings concept.
2. The adequacy of scheduled awards.
3. The feasibility of including disabilities involving the heart, brain, and back in a system of scheduled compensation.
4. Whether the Secretary of Labor should have discretionary authority to increase maximum monthly attendant and maintenance allowances.

The Committee intends that the Secretary report his findings, together with appropriate recommendation, to the Congress within 12 months upon enactment.

Effective dates of the bill

All sections of these amendments shall be effective from the date of enactment and be applicable to any injury or death occurring after such date unless otherwise stated. The amendment made by section 11 permitting the continuation of pay in a claim involving a traumatic injury for a period not to exceed 45 days, shall be effective 60 days after enactment of this Act, and be applicable to any injury occurring on or after such effective date. This will provide the employing agencies with sufficient time to become familiar with the provisions of this section. In addition, sections 1(b) and (c), 2, 3, 7(a) and (b), 8(a) and (b), 9, 16(a) and (b), 17, 19, 20, 21, 22, 24, and 25, are to be applicable to all cases where the injury or death occurred prior to the date of enactment, but the provisions of these sections are to be applicable only to any period beginning on or after the date of enactment.

SECTION-BY-SECTION DESCRIPTION OF THE BILL AS REPORTED

Section 1

Subsection (a) amends the section 8101(1) definitions of "employee" by adding those individuals serving as Federal grand or petit jurors, and who are otherwise considered Federal employees for the purposes of the Act.

Subsections (b) and (c) provide for the inclusion of podiatrists, dentists, clinical psychologists, optometrists, and chiropractors to the extent specified, in the definition of "physician" in section 8101(2) of the Act, and the definition of "medical, surgical, and hospital services and supplies" in section 8101(3) of the Act.

Subsection (d) amends the definition of injury in section 8101(5) to include damage or destruction of medical braces, artificial limbs, and other prosthetic devices, as well as time lost while such braces, appliances, or devices are being replaced or repaired.

The amendment made by subsection (e) of this section brings the definition of "widower" into conformance with that of "widow" by allowing a widower to receive benefits because of the death of his federally employed spouse if he lived with her, or was dependent upon her at the time of her death, or if living apart for good reason, or because of the desertion of the husband by the wife.

Subsection (f) of this section adds a new definition to section 8101 of the Act which defines the term "organ", but excludes from that term, for purposes of scheduled awards under the Act, the brain, heart, and back.

The amendment made by subsection (f) also adds a definition of "United States medical officer and hospital" to such section 8101. The term is defined to include all officers and hospitals of the Army, Navy, Air Force, Veterans' Administration, and the Public Health Service, and any other officer or hospital designated by the Secretary.

Section 2

This section amends 8103(a)(3) of the Act to accord an employee the free choice of physicians and facilities as approved by the Secretary. The employee may also utilize private medical facilities or elect to utilize physicians and facilities furnished by the government. Present law requires the use of U.S. government medical facilities if available, and allows the use of private physicians only when government facilities are not available.

Section 3

The amendment made by this section would eliminate the requirement of section 8106 of the Act that compensation be reduced in instances where the disability changes from total to partial while the employee is enrolled in a vocational rehabilitation program approved by the Secretary.

The present law requires a reduction in the compensation received by an injured employee when his disability changes from total to partial.

Section 4

This section makes a technical amendment which corrects a grammatical error made between the 1966 amendments to the Federal Employees Compensation Act (P.L. 89-488 of July 4, 1966) and the codification of these amendments (P.L. 90-83 of September 11, 1967).

Section 5

The amendment made by this section adds to the list of scheduled awards in section 8107(c) of the Act any important internal or external organs as specified by the Secretary. Organ is defined for purposes of this Act by the proposed amendment contained in section 1(f) of the bill.

In addition, the amendment made by this section specifies that such losses are to be compensated for a period not to exceed 312 weeks. Compensation schedules to be developed by the Secretary are to include organs other than those already scheduled in the Act.

Section 6

The amendment made by this section, together with the conforming amendment in section 1 of the bill, eliminates the discriminatory effect of the present law and permits an injured female worker to receive the 8 $\frac{1}{2}$ % augmented compensation for dependents if she has a husband who is a member of the same household, receiving regular contributions for his support, or if she has been ordered by a court to contribute to his support.

Section 7

The amendment made by subsection (a) of this section increases from \$300 to \$500 the maximum monthly allowance contained in section 8111(a) of the Act when the service of an attendant is necessary.

Section 8

The amendment made by this section removes the requirement of present law that the Office of Workers' Compensation Programs reassess an individual's compensation at age 70.

Section 9

The amendment made by this section would permit employees or survivors to receive benefits administered by the Veterans' Administration while receiving benefits under the Act as long as such payment is not for the same injury or death. It would also allow receipt of military retirement or retainer pay while receiving benefits under the Act, subject to the limitations on receipt of dual compensation by retired officers contained in 5 U.S.C. § 5532.

Section 10

The amendment made by this section would change the time for accrual of right to compensation by changing the 21-day waiting period for retroactive benefits to 14 days.

Section 11

The amendment made by this section authorizes Federal agencies to continue an employee's pay, in cases where claim for wage loss has

been made on the basis of a traumatic injury, for a period not exceeding 45 days, subject to certain applicable sections of the Act and the Secretary's regulatory authority. Provision is made for applying the waiting days provided in section 8117 of the Act at the end of the period of continuation of pay if disability continues beyond that period. The continuation of pay is not to be affected by the compensation rates in sections 8105 and 8110 of the Act, and for all intents and purposes is to be considered a continuation of the monthly pay in 8101(4) of the Act, subject to all applicable income tax provisions of the Internal Revenue Code. In the event the claim is denied, the employee shall be given the option to use sick leave or annual leave, or have an adjustment made to the employee's regular pay as an overpayment.

Section 12

This section amends section 8119 of the Act by lengthening the time limit during which notice of injury or death can be given from 48 hours to 30 days and adds a requirement for notice of death. In addition, the section removes both the penalty provision as well as the provision for waiver for failure to give timely notice of injury or death.

Section 13

The amendment made by this section would permit Federal agencies to obtain claim forms from the Government Printing Office if such forms are approved by the Secretary. The present law requires the agencies to obtain the forms directly from the Department of Labor. This amendment would have the effect of allocating the costs of printing among the agencies using the forms.

Section 14

The amendment made by this section eliminates the 5-year waiver for the filing of claims, changes the statute of limitations for filing from 1 to 3 years, clarifies the present requirements for actual knowledge, adds a provision delaying the running of the time for filing if the Secretary excuses the failure to comply because of exceptional circumstances, and includes a provision making the filing of a disability claim satisfy the time requirements of a death claim based on the same injury.

Section 15

The amendment made by this section would expedite recovery by the Federal Government of amounts paid a claimant where there is a subsequent third party recovery by granting the government a lien on such recovery in an amount not to exceed the amounts already paid to the individual in compensation less reasonable costs and attorney's fees. This amendment also sets forth a minimum recovery by the claimant.

Section 16

The amendment made by this section would raise benefits paid to widows and widowers by 5% without increasing the present ceiling of 75% of the employee's earnings.

Section 17

The amendment made by this section would allow death benefits to exceed the former employee's monthly pay if such excess is created by cost-of-living increases authorized by section 8146a of the Act.

Section 18

The amendment made by this section provides \$200 for the administrative costs of terminating a deceased employee's status with the Federal Government, and is payable in addition to the costs of funeral and burial expenses in section 8134 of the Act.

Section 19

The amendment made by this section permits the Secretary to discharge compensation liability by a lump sum payment if the monthly payment to the beneficiary is less than \$50. (The current minimum monthly payment permitting this discharge is \$5.)

Section 20

The amendment made by this section provides for the computation of lump-sum payments based on the most current actuarial tables. It removes the required use of the American Experience Table of Mortality last published in 1868.

Section 21

This section amends section 8146a (a) and (b) of the Act by removing the two-month waiting period currently required following a 3% rise in the price index for three consecutive months over the price index for the latest base month. The amendment to subsection (b) would facilitate the fixing of adjusted compensation to the nearest dollar for disability payments as is now provided for death payments.

Section 22

The amendment made by this section would assure injured employees who are able to return to work at some later date that, during their period of disability, they will incur no loss of benefits that they would have received were they not injured. In addition, this amendment provides an absolute right to an employee who is injured and who recovers within one year from the date compensation begins, or suffers a recurrence of such disability, return to his old job or an equivalent position. For those employees whose disability extends beyond one year, the employing agency or department is to give priority in employment to the injured worker upon recovery.

Section 23

This section makes a technical amendment updating the "Table of Contents" to reflect the addition of Section 8151, "CIVIL SERVICE RETENTION RIGHTS."

Subsection (b) amends Section 8142(c) of the Act by recognizing a new classification of Peace Corps Volunteer.

Section 24

Certain groups were excluded from the cost-of-living increases provided for by the 1966 amendments to the Federal Employees Compensation Act.

Section 25

The amendment made by this section would include the United States Postal Service among those organizations which are required to pay an additional amount into the Employees' Compensation Fund for administration.

Section 26

This section makes a technical amendment to section 8147(a) of the Act changing the reference to the Bureau of the Budget to the Office of Management and Budget.

Section 27

This section directs the Secretary of Labor to conduct a study concerning programs administered under the Act, and to report thereon to the Congress no later than twelve months after enactment of the bill.

Section 28

This section provides that the Act shall become effective upon enactment, except for section 11 (continuity of pay) which becomes effective 60 days from enactment, and the amendments made by sections 1 (b) and (c), 2, 3, 7 (a) and (b), 8 (a) and (b), 9, 16 (a) and (b), 17, 19, 20, 21, 22, 24 and 25 which shall be applicable to cases where the injury or death occurred prior to the date of enactment but the benefits therein shall be applicable only as of enactment.

ESTIMATE OF COST

In accordance with Section 252(a)(1) of the Legislative Reorganization Act of 1970, the Committee has ascertained the costs which would be incurred as a result of enactment of H.R. 13871 as amended.

With respect to amendments to the Federal Employees' Compensation Act passed by the House and included without significant change in this report, the Committee has confirmed the cost estimates contained in the report of the House Education and Labor Committee, which are based on estimates furnished by the Department of Labor, as follows: \$1,000,000 for the fiscal year ending June 30, 1974; \$6,777,629 for the fiscal year ending June 30, 1975; \$8,266,939 for the fiscal year ending June 30, 1976; \$10,283,961 for the fiscal year ending June 30, 1977; \$12,785,069 for the fiscal year ending June 30, 1978; and \$15,886,433 for the fiscal year ending June 30, 1979. These estimates represent amounts directly attributable to the increase in benefits provided in the bill. The Department of Labor anticipates no increase in administrative costs due to the House or Senate amendments.

The annual cost of amendments added by the Committee is estimated as follows: \$25,000 for coverage of Federal employees serving as Federal jurors; \$10,000 for coverage of the new classification of Peace Corps volunteers; and \$50,000 for replacement or repair of damaged prosthetic devices and appliances.

The Committee's estimate of cost is the same as that supplied by the Department of Labor, except for the amendment covering Peace Corps volunteers which was provided by the ACTION agency, and the amendment concerning Federal jurors which was based on estimates provided by the Administrative Office of the United States Courts.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by sections 1 through 9 and titles I through VI of the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter printed in *italic*):

The amendment made by this section would accord these increases to those groups enumerated.

TITLE 5, UNITED STATES CODE

* * * * *

Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

SURCHAPTER I—GENERALLY

- Sec.
- 8101. Definitions.
 - 8102. Compensation for disability or death of employee.
 - 8103. Medical services and initial medical and other benefits.
 - 8104. Vocational rehabilitation.
 - 8105. Total disability.
 - 8106. Partial disability.
 - 8107. Compensation schedule.
 - 8108. Reduction of compensation for subsequent injury to same member.
 - 8109. Beneficiaries of awards unpaid at death; order of precedence.
 - 8110. Augmented compensation for dependents.
 - 8111. Additional compensation for services of attendants or vocational rehabilitation.
 - 8112. Maximum and minimum monthly payments.
 - 8113. Increase or decrease of basic compensation.
 - 8114. Computation of pay.
 - 8115. Determination of wage-earning capacity.
 - 8116. Limitations on right to receive compensation.
 - 8117. Time of accrual of right.
 - 8118. Election to use annual or sick leave.
 - 8119. Notice of injury **[**;failure to give.**]** *or death.*
 - 8120. Report of injury.
 - 8121. Claim.
 - 8122. Time for making claim.
 - 8123. Physical examinations.
 - 8124. Findings and award; hearings.
 - 8125. Misbehavior at proceedings.
 - 8126. Subpenas; oaths; examination of witnesses.
 - 8127. Representation; attorneys' fees.
 - 8128. Review of award.
 - 8129. Recovery of overpayments.
 - 8130. Assignment of claim.
 - 8131. Subrogation of the United States.
 - 8132. Adjustment after recovery from a third person.
 - 8133. Compensation in case of death.
 - 8134. Funeral expenses; transportation of body.
 - 8135. Lump-sum payment.
 - 8136. Initial payments outside the United States.

- 8137. Compensation for noncitizens and nonresidents.
- 8138. Minimum limit modification of noncitizens and aliens.
- 8139. Employees of the District of Columbia.
- 8140. Members of the Reserve Officers' Training Corps.
- 8141. Civil Air Patrol volunteers.
- 8142. Peace Corps volunteers.
- 8143. Jobs Corps enrollees; volunteers in service to America.
- 8143a. Members of the National Teacher Corps.
- 8144. Student-employees.
- 8145. Administration.
- 8146. Administration for the Canal Zone and The Alaska Railroad.
- 8146a. Cost-of-living adjustment of compensation.
- 8147. Employees' Compensation Fund.
- 8148. **[Repealed.]**
- 8149. Regulations.
- 8150. Effect on other statutes.
- 8151. *Civil service retention rights.*

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8191-8193. Law enforcement officers not employed by the United States.

Subchapter I—GENERALLY

§ 8101. Definitions

For the purpose of this subchapter—

(1) "employee" means—

(A) a civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;

(B) an individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual;

(C) an individual, other than an independent contractor or an individual employed by an independent contractor, employed on the Menominee Indian Reservation in Wisconsin in operations conducted under a statute relating to tribal timber and logging operations on that reservation;

(D) an individual employed by the government of the District of Columbia; **[and]**

(E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

but does not include—

(i) a commissioned officer of the Regular Corps of the Public Health Service;

(ii) a commissioned officer of the Reserve Corps of the Public Health Service on active duty;

(iii) a commissioned officer of the Environmental Science Services Administration; or

(iv) a member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under sections 521-535 of title 4, District of Columbia Code; and

(F) an individual selected pursuant to chapter 121 of title 28, United States Code, and serving as a petit or grand juror and

who is otherwise an employee for the purposes of this subchapter as defined by paragraphs (A), (B), (C), (D), and (E) of this subsection;

(2) "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. *The term "physician" includes chiropractors only to the extent that their reimbursible services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray and subject to regulation by the Secretary;*

(3) "medical, surgical, and hospital services and supplies" includes services and supplies by podiatrists, dentists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners and hospitals within the scope of their practice as defined by State ~~law.~~ *Reimbursible chiropractic services are limited to treatment consisting of manual manipulation of the spine, to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary.*

(4) "monthly pay" means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except when otherwise determined under section 8113 of this title with respect to any period;

(5) "injury" includes, in addition to injury by accident, a disease proximately caused by the ~~employment;~~ *employment, and damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired, and such time lost while such device or appliance is being replaced or repaired; except that eyeglasses and hearing aids would not be replaced, repaired or otherwise compensated for, unless the damage or destruction is incident to a personal injury requiring medical services;*

(6) "widow" means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion;

(7) "parent" includes stepparents and parents by adoption;

(8) "brother" and "sister" mean one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers or married sisters;

(9) "child" means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and includes stepchildren, adopted children, and posthumous children, but does not include married children;

(10) "grandchild" means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support;

~~[(11) "widower" means one who, because of physical or mental disability, was wholly dependent for support on the employee at the time of her death;]~~ *(11) "widower" means the husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable cause or because of her desertion;*

(12) "compensation" includes the money allowance payable to an employee or his dependents and any other benefits paid for from the Employees' Compensation Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;

(13) "war-risk hazard" means a hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring in the country in which an individual to whom this subchapter applies is serving; from—

(A) the discharge of a missile, including liquids and gas, or the use of a weapon, explosive, or other noxious thing by a hostile force or individual or in combating an attack or an imagined attack by a hostile force or individual;

(B) action of a hostile force or individual, including rebellion or insurrection against the United States or any of its allies;

(C) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or individual;

(D) the collision of vessels on convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(E) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities;

(14) "hostile force or individual" means a nation, a subject of a foreign nation, or an individual serving a foreign nation—

(A) engaged in a war against the United States or any of its allies;

(B) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies; or

(C) engaged in a war or armed conflict between military forces of any origin in a country in which an individual to whom this subchapter applies is serving;

(15) "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance;

(16) "war activities" include activities directly relating to military operations;

(17) "student" means an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is—

(A) a school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

(B) a school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body;

(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by at least three insti-

tutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(D) an additional type of educational or training institution as defined by the Secretary of Labor.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 4 months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period;

(18) "price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; [and]

(19) "base month" means the month of July 1966 and each later month which is used as a basis for calculating an increase under section 8146a of this [title.] title;

(20) "organ" means a part of the body that performs a special function, and for purposes of this subchapter excludes the brain, heart, and back; and

(21) "United States medical officers and hospitals" includes medical officers and hospitals of the Army, Navy, Air Force, Veterans' Administration, and United States Public Health Service, and any other medical officer or hospital designated as a United States medical officer or hospital by the Secretary of Labor.

§ 8102. Compensation for disability or death of employee

(a) The United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty, unless the injury or death is—

- (1) caused by willful misconduct of the employee;
- (2) caused by the employee's intention to bring about the injury or death of himself or of another; or
- (3) proximately caused by the intoxication of the injured employee

(b) Disability or death from a war-risk hazard or during or as a result of capture, detention, or other restraint by a hostile force or individual, suffered by an employee who is employed outside the continental United States or in Alaska or in the Canal Zone, is deemed to have resulted from personal injury sustained while in the performance of his duty, whether or not the employee was engaged in the course of employment when the disability or disability resulting in death occurred or when he was taken by the hostile force or individual. This subsection does not apply to an individual—

- (1) whose residence is at or in the vicinity of the place of his employment and who was not living there solely because of the exigencies of his employment, unless he was injured or taken while engaged in the course of his employment; or

(2) who is a prisoner of war or a protected individual under the Geneva Conventions of 1949 and is detained or utilized by the United States.

This subsection does not affect the payment of compensation under this subchapter derived otherwise than under this subsection, but compensation for disability or death does not accrue for a period for which pay, other benefit, or gratuity from the United States accrues to the disabled individual or his dependents on account of detention by the enemy or because of the same disability or death, unless that pay, benefit, or gratuity is refunded or renounced.

§ 8103. Medical services and initial medical and other benefits.

(a) The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation. These services, appliances, and supplies shall be furnished—

(1) whether or not disability has arisen;

(2) notwithstanding that the employee has accepted or is entitled to receive benefits under subchapter III of chapter 83 of this title or another retirement system for employees of the Government; and

(3) by or on the order of United States medical officers and hospitals, or, [when this is not practicable] *at the employee's option*, by or on [the] order of [private] physicians and hospitals designated or approved by the Secretary.

The employee may [be furnished transportation and may be paid all expenses incident to the securing of these services, appliances, and supplies which the Secretary considers necessary and reasonable.] *initially select a physician to provide medical services, appliances, and supplies, in accordance with such regulations and instructions as the Secretary considers necessary, and may be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances, and supplies.* These expenses, when authorized or approved by the Secretary, shall be paid from the Employees' Compensation Fund.

(b) The Secretary, under such limitations or conditions as he considers necessary, may authorize the employing agencies to provide for the initial furnishing of medical and other benefits under this section. The Secretary may certify vouchers for these expenses out of the Employees' Compensation Fund when the immediate superior of the employee certifies that the expense was incurred in respect to an injury which was accepted by the employing agency as probably compensable under this subchapter. The Secretary shall prescribe the form and content of the certificate.

§ 8104. Vocational rehabilitation

(a) The Secretary of Labor may direct a permanently disabled individual whose disability is compensable under this subchapter to undergo vocational rehabilitation. The Secretary shall provide for furnishing the vocational rehabilitation services. In providing for

these services, the Secretary, insofar as practicable, shall use the services or facilities of State agencies and corresponding agencies which cooperate with the Secretary of Health, Education, and Welfare in carrying out the purposes of chapter 4 of title 29, except to the extent that the Secretary of Labor provides for furnishing these services under section 8103 of this title. The cost of providing these services to individuals undergoing vocational rehabilitation under this section shall be paid from the Employees' Compensation Fund. However, in reimbursing a State or corresponding agency under an arrangement pursuant to this section the cost to the agency reimbursable in full under section 32(b)(1) of title 29 is excluded.

(b) Notwithstanding section 8106, individuals directed to undergo vocational rehabilitation by the Secretary shall, while undergoing such rehabilitation, receive compensation at the rate provided in sections 8105 and 8110 of this title, less the amount of any earnings received from remunerative employment, other than employment undertaken pursuant to such rehabilitation.

§ 8105. Total disability

(a) If the disability is total, the United States shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of his monthly pay, which is known as his basic compensation for total disability.

(b) The loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes, is prima facie permanent total disability.

§ 8106. Partial disability

(a) If the disability is partial, the United States shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of the partial disability, which is known as his basic compensation for partial disability.

(b) The Secretary of Labor may require a partially disabled employee to report his earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

(1) fails to make an affidavit or report when required; or
 (2) knowingly omits or understates any part of his earnings;
 forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.

(c) A partially disabled employee who—

(1) refuses to seek suitable work; or
 (2) refuses or neglects to work after suitable work is offered to, procured by, or secured for him;
 is not entitled to compensation.

§ 8107. Compensation schedule

(a) If there is permanent disability involving the *loss, or loss of use of* use, of a member or function of the body or involving disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, at the rate of 66% percent of his monthly pay. The basic compensation is—

(1) payable regardless of whether the cause of the disability originates in a part of the body other than that member;

(2) payable regardless of whether the disability also involves another impairment of the body; and

(3) in addition to compensation for temporary total or temporary partial disability.

(b) With respect to any period after payments under subsection (a) of this section have ended, an employee is entitled to compensation as provided by—

(1) section 8105 of this title if the disability is total; or

(2) section 8106 of this title if the disability is partial.

(c) The compensation schedule is as follows:

(1) Arm lost, 312 weeks' compensation.

(2) Leg lost, 288 weeks' compensation.

(3) Hand lost, 244 weeks' compensation.

(4) Foot lost, 205 weeks' compensation.

(5) Eye lost, 160 weeks' compensation.

(6) Thumb lost, 75 weeks' compensation.

(7) First finger lost, 46 weeks' compensation.

(8) Great toe lost, 38 weeks' compensation.

(9) Second finger lost, 30 weeks' compensation.

(10) Third finger lost, 25 weeks' compensation.

(11) Toe other than great toe lost, 16 weeks' compensation.

(12) Fourth finger lost, 15 weeks' compensation.

(13) Loss of hearing—

(A) complete loss of hearing of one ear, 52 weeks' compensation; or

(B) complete loss of hearing of both ears, 200 weeks' compensation.

(14) Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is the same as for loss of the eye.

(15) Compensation for loss of more than one phalanx of a digit is the same as for loss of the entire digit. Compensation for loss of the first phalanx is one-half of the compensation for loss of the entire digit.

(16) If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation is the same as for loss of the arm or leg, respectively.

(17) Compensation for loss of use of two or more digits or one or more phalanges of each of two or more digits, of a hand or foot, is proportioned to the loss of use of the hand or foot occasioned thereby.

(18) Compensation for permanent total loss of use of a member is the same as for loss of the member.

(19) Compensation for permanent partial loss of use of a member may be for proportionate loss of use of the member. The degree

of loss of vision or hearing under this schedule is determined without regard to correction.

(20) In case of loss of use of more than one member or parts of more than one member as enumerated by this schedule, the compensation is for loss of use of each member or part thereof, and the awards run consecutively. However, when the injury affects only two or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is computed on the loss as affecting both ears.

(21) For serious disfigurement of the face, head, or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed \$3,500 shall be awarded in addition to any other compensation payable under this schedule.

(22) *For permanent loss or loss of use of any other important external or internal organ of the body as determined by the Secretary, proper and equitable compensation not to exceed 312 weeks' compensation for each organ so determined shall be paid in addition to any other compensation payable under this schedule.*

§ 8108. Reduction of compensation for subsequent injury to same member

The period of compensation payable under the schedule in section 8107(c) of this title is reduced by the period of compensation paid or payable under the schedule for an earlier injury if—

(1) compensation in both cases is for disability of the same member or function or different parts of the same member or function or for disfigurement; and

(2) the Secretary of Labor finds that compensation payable for the later disability in whole or in part would duplicate the compensation payable for the preexisting disability.

In such a case, compensation for disability continuing after the scheduled period starts on expiration of that period as reduced under this section.

§ 8109. Beneficiaries of awards unpaid at death; order of precedence

(a) If an individual—

(1) has sustained disability compensable under section 8107(a) of this title;

(2) has filed a valid claim in his lifetime; and

(3) dies from a cause other than the injury before the end of the period specified by the schedule;

the compensation specified by the schedule that is unpaid at his death, whether or not accrued or due at his death, shall be paid—

(A) under an award made before or after the death;

(B) for the period specified by the schedule;

(C) to and for the benefit of the persons then in being within the classes and proportions and on the conditions specified by this section; and

(D) in the following order of precedence:

(i) If there is no child, to the widow or widower.

(ii) If there are both a widow or widower and a child or children, one-half to the widow or widower and one-half to the child or children.

(iii) If there is no widow or widower, to the child or children.

(iv) If there is no survivor in the above classes, to the parent or parents wholly or partly dependent for support on the decedent, or to other wholly dependent relatives listed by section 8133(a)(5) of this title, or to both in proportions provided by regulation.

(v) If there is no survivor in the above classes and no burial allowance is payable under section 8134 of this title, an amount not exceeding that which would be expendable under section 8134 of this title if applicable shall be paid to reimburse a person equitably entitled thereto to the extent and in the proportion that he has paid the burial expenses, but a compensated insurer or other person obligated by law or contract to pay the burial expenses or a State or political subdivision or entity is deemed not equitably entitled.

(b) Payments under subsection (a) of this section, except for an amount payable for a period preceding the death of the individual, are at the basic rate of compensation for permanent disability specified by section 8107(a) of this title even if at the time of death the individual was entitled to the augmented rate specified by section 8110 of this title.

(c) A surviving beneficiary under subsection (a) of this section, except one under subsection (a) (D) (v), does not have a vested right to payment and must be alive to receive payment.

(d) A beneficiary under subsection (a) of this section, except one under subsection (a)(D)(v), ceases to be entitled to payment on the happening of an event which would terminate his right to compensation for death under section 8133 of this title. When that entitlement ceases, compensation remaining unpaid under subsection (a) of this section is payable to the surviving beneficiary in accordance with subsection (a) of this section.

§ 8110. Augmented compensation for dependents

(a) For the purpose of this section, "dependent" means—

(1) a wife, if—

(A) she is a member of the same household as the employee;

(B) she is receiving regular contributions from the employee for her support; or

(C) the employee has been ordered by a court to contribute to her support;

[(2) a husband, if wholly dependent on the employee for support because of his own physical or mental disability;]

(2) a husband, if—

(A) he is a member of the same household as the employee; or

(B) he is receiving regular contributions from the employee for his support; or

(C) the employee has been ordered by a court to contribute to his support;

(3) an unmarried child, while living with the employee or receiving regular contributions from the employee toward his support, and who is—

(A) under 18 years of age; or

(B) over 18 years of age and incapable of self-support because of physical or mental disability; and

(4) a parent, while wholly dependent on and supported by the employee.

Notwithstanding paragraph (3) of this subsection, compensation payable for a child that would otherwise end because the child has reached 18 years of age shall continue if he is a student as defined by section 8101 of this title at the time he reaches 18 years of age for so long as he continues to be such a student or until he marries.

(b) A disabled employee with one or more dependents is entitled to have his basic compensation for disability augmented—

(1) at the rate of $8\frac{1}{2}$ percent of his monthly pay if that compensation is payable under section 8105 or 8107(a) of this title; and

(2) at the rate of $8\frac{1}{2}$ percent of the difference between his monthly pay and his monthly wage-earning capacity if that compensation is payable under section 8106(a) of this title.

§ 8111. Additional compensation for services of attendants or vocational rehabilitation

(a) The Secretary of Labor may pay an employee who has been awarded compensation an additional sum of not more than **[\$300]** \$500 a month, as the Secretary considers necessary, when the Secretary finds that the service of an attendant is necessary constantly because the employee is totally blind, or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because of other disability resulting from the injury making him so helpless as to require constant attendance.

(b) The Secretary may pay an individual undergoing vocational rehabilitation under section 8104 of this title additional compensation necessary for his maintenance, but not to exceed **[\$100]** \$200 a month.

§ 8112. Maximum and minimum monthly payments

Except as provided by section 8138 of this title, the monthly rate of compensation for disability, including augmented compensation under section 8110 of this title but not including additional compensation under section 8111 of this title, may not be more than 75 percent of the monthly pay of the maximum rate of basic pay for GS-15, and in case of total disability may not be less than 75 percent of the monthly pay of the minimum rate of basic pay for GS-2 or the amount of the monthly pay of the employee, whichever is less.

§ 8113. Increase or decrease of basic compensation

(a) If an individual—

(1) was a minor or employed in a learner's capacity at the time of injury; and

(2) was not physically or mentally handicapped before the injury;

the Secretary of Labor, on review under section 8128 of this title after the time the wage-earning capacity of the individual would probably have increased but for the injury, shall recompute prospectively the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to the probable increased wage-earning capacity.

[(b)] The Secretary, on review under section 8128 of this title after a disabled employee becomes 70 years of age and his wage-earning capacity would probably have decreased because of old age aside from and independently of the effects of the injury, may recompute prospectively the monetary compensation payable for disability on the

basis of an assumed monthly pay corresponding to the probable decreased wage-earning capacity.】

【(c)】(b) If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 8104 of this title, the Secretary, on review under section 8128 of this title and after finding that in the absence of the failure the wage-earning capacity of the individual would probably have substantially increased, may reduce prospectively the monetary compensation of the individual in accordance with what would probably have been his wage-earning capacity in the absence of the failure, until the individual in good faith complies with the direction of the Secretary.

§ 8114. Computation of pay

(a) For the purpose of this section—

(1) “overtime pay” means pay for hours of service in excess of a statutory or other basic workweek or other basic unit of worktime, as observed by the employing establishment; and

(2) “year” means a period of 12 calendar months, or the equivalent thereof as specified by regulations prescribed by the Secretary of Labor.

(b) In computing monetary compensation for disability or death on the basis of monthly pay, that pay is determined under this section.

(c) The monthly pay at the time of injury is deemed one-twelfth of the average annual earnings of the employee at that time. When compensation is paid on a weekly basis, the weekly equivalent of the monthly pay is deemed one-fifty-second of the average annual earnings. However, for so much of a period of total disability as does not exceed 90 calendar days from the date of the beginning of compensable disability, the compensation, in the discretion of the Secretary of Labor, may be computed on the basis of the actual daily wage of the employee at the time of injury in which event he may be paid compensation for the days he would have worked but for the injury.

(d) Average annual earnings are determined as follows:

(1) If the employee worked in the employment in which he was employed at the time of his injury during substantially the whole year immediately preceding the injury and the employment was in a position for which an annual rate of pay—

(A) was fixed, the average annual earnings are the annual rate of pay; or

(B) was not fixed, the average annual earnings are the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by 300 if he was employed on the basis of a 6-day workweek, 280 if employed on the basis of a 5½-day week, and 260 if employed on the basis of a 5-day week.

(2) If the employee did not work in employment in which he was employed at the time of his injury during substantially the whole year immediately preceding the injury, but the position was one which would have afforded employment for substantially a whole year, the average annual earnings are a sum equal to the average annual earnings of an employee of the same class working substantially the whole immediately preceding year in the same or similar employment by the United States in the same

or neighboring place, as determined under paragraph (1) of this subsection.

(3) If either of the foregoing methods of determining the average annual earnings cannot be applied reasonably and fairly, the average annual earnings are a sum that reasonably represents the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury having regard to the previous earnings of the employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring location, other previous employment of the employee, or other relevant factors. However, the average annual earnings may not be less than 150 times the average daily wage the employee earned in the employment during the days employed within 1 year immediately preceding his injury.

(4) If the employee served without pay or at nominal pay, paragraphs (1), (2), and (3) of this subsection apply as far as practicable, but the average annual earnings of the employee may not exceed the minimum rate of basic pay for GS-15. If the average annual earnings cannot be determined reasonably and fairly in the manner otherwise provided by this section, the average annual earnings shall be determined at the reasonable value of the service performed but not in excess of \$3,600 a year.

(c) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, and premium pay under section 5545(c) (1) of this title are included as part of the pay, but account is not taken of—

- (1) overtime pay;
- (2) additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstances; or
- (3) bonus or premium pay for extraordinary service including bonus or pay for particularly hazardous service in time of war.

§ 8115. Determination of wage-earning capacity

(a) In determining compensation for partial disability, except permanent partial disability compensable under sections 8107-8109 of this title, the wage-earning capacity of an employee is determined by his actual earnings if his actual earnings fairly and reasonably represent his wage-earning capacity. If the actual earnings of the employee do not fairly and reasonably represent his wage-earning capacity or if the employee has no actual earnings, his wage-earning capacity as appears reasonable under the circumstances is determined with due regard to—

- (1) the nature of his injury;
- (2) the degree of physical impairment;
- (3) his usual employment;
- (4) his age;
- (5) his qualifications for other employment;
- (6) the availability of suitable employment; and
- (7) other factors or circumstances which may affect his wage-earning capacity in his disabled condition.

(b) Section 8114(d) of this title is applicable in determining the wage-earning capacity of an employee after the beginning of partial disability.

§ 8116. Limitations on right to receive compensation

(a) While an employee is receiving compensation under this subchapter, or if he has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, he may not receive salary, pay, or remuneration of any type from the United States, except—

- (1) in return for service actually performed; **[and]**
- (2) pension for service in the Army, Navy, or Air Force **[.]**;
- (3) *other benefits administered by the Veterans' Administration unless such benefits are payable for the same injury or the same death; and*
- (4) *retired pay, retirement pay, retainer pay, or equivalent pay for service in the Armed Forces or other uniformed services, subject to the reduction of such pay in accordance with section 5532 (b) of title 5, United States Code.*

However, eligibility for or receipt of benefits under subchapter III of chapter 83 of this title, or another retirement system for employees of the Government, does not impair the right of the employee to compensation for scheduled disabilities specified by section 8107(c) of this title.

(b) An individual entitled to benefits under this subchapter because of his injury, or because of the death of an employee, who also is entitled to receive from the United States under a provision of statute other than this subchapter payments or benefits for that injury or death (except proceeds of an insurance policy), because of service by him (or in the case of death, by the deceased) as an employee or in the armed forces, shall elect which benefits he will receive. The individual shall make the election within 1 year after the injury or death or within a further time allowed for good cause by the Secretary of Labor. The election when made is irrevocable, except as otherwise provided by statute.

(c) The liability of the United States or an instrumentality thereof under this subchapter or any extension thereof with respect to the injury or death of an employee is exclusive and instead of all other liability of the United States or the instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and any other person otherwise entitled to recover damages from the United States or the instrumentality because of the injury or death in a direct judicial proceeding, in a civil action, or in admiralty, or by an administrative or judicial proceeding under a workmen's compensation statute or under a Federal tort liability statute. However, this subsection does not apply to a master or a member of a crew of a vessel.

§ 8117. Time of accrual of right

An employee is not entitled to compensation for the first 3 days of temporary disability, except—

- (1) when the disability exceeds **[21]** 14 days;
- (2) when the disability is followed by permanent disability; or
- (3) as provided by sections 8103 and 8104 of this title.

§ 8118. Election to use annual or sick leave

An employee may use annual or sick leave to his credit at the time disability begins, but his compensation for disability does not begin, and the time periods specified by section 8117 of this title do not begin to run, until the use of the annual or sick leave ends. **]**

§ 8118. Continuation of pay; election to use annual or sick leave

(a) *The United States shall authorize the continuation of pay of an employee, as defined in section 8101(1) of this title (other than those referred to in clause (B) or (E)), who has filed a claim for a period of wage loss due to a traumatic injury with his immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title.*

(b) *Continuation of pay under this subchapter shall be furnished—*

(1) *without a break in time unless controverted under regulations of the Secretary;*

(2) *for a period not to exceed 45 days; and*

(3) *under accounting procedures and such other regulations as the Secretary may require.*

(c) *An employee may use annual or sick leave to his credit at the time the disability begins, but his compensation for disability does not begin, and the time periods specified by section 8117 of this title do not begin to run, until termination of pay as set forth in subsections (a) and (b) or the use of annual or sick leave ends.*

(d) *If a claim under subsection (a) is denied by the Secretary, payments under this section shall, at the option of the employee, be charged to sick or annual leave or shall be deemed overpayments of pay within the meaning of Section 5584 of title 5, United States Code.*

(e) *Payments under this section shall not be considered compensation as defined by section 8101(12) of this title.*

§ 8119. Notice of injury; failure to give]

[(a) An employee injured in the performance of his duty, or someone on his behalf, shall give notice thereof. The notice shall—

[(1) be given within 48 hours after the injury;

[(2) be given to the immediate superior of the employee by personal delivery or by depositing it in the mail properly stamped and addressed;

[(3) be in writing;

[(4) state the name and address of the employee;

[(5) state the year, month, day, and hour when and the particular locality where the injury occurred;

[(6) state the cause and nature of the injury; and

[(7) be signed by and contain the address of the individual giving the notice.

[(b) Compensation may be allowed only if the notice is given within 48 hours after the injury or if the immediate superior of the employee has actual knowledge of the injury. However, the Secretary of Labor may allow compensation if—

[(1) the notice is filed within 1 year after the injury and reasonable cause for the delay is shown; or

[(2) the requirement for 48 hours' notice is waived under section 8122 of this title.]

§ 8119. Notice of injury or death

An employee injured in the performance of his duty, or someone on his behalf, shall give notice thereof. Notice of a death believed to be related to the employment shall be given by an eligible beneficiary specified

in section 8133 of this title, or someone on his behalf. A notice of injury or death shall—

- (a) be given within 30 days after the injury or death;*
- (b) be given to the immediate superior of the employee by personal delivery or by depositing it in the mail properly stamped and addressed;*
- (c) be in writing;*
- (d) state the name and address of the employee;*
- (e) state the year, month, day, and hour when and the particular locality where the injury or death occurred;*
- (f) state the cause and nature of the injury, or in the case of death, the employment factors believed to be the cause; and*
- (g) be signed by and contain the address of the individual giving the notice.*

§ 8120. Report of injury

Immediately after an injury to an employee which results in his death or probable disability, his immediate superior shall report to the Secretary of Labor. The Secretary may—

- (1) prescribe the information that the report shall contain;
- (2) require the immediate superior to make supplemental reports; and
- (3) obtain such additional reports and information from employees as are agreed on by the Secretary and the head of the employing agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 543).

§ 8121. Claim

Compensation under this subchapter may be allowed only if an individual or someone on his behalf makes claim therefor. The claim shall—

- (1) be made in writing within the time specified by section 8122 of this title;
 - (2) be delivered to the office of the Secretary of Labor or to an individual whom the Secretary may designate by regulation, or deposited in the mail properly stamped and addressed to the Secretary or his designee;
 - (3) be on a form **[furnished]** approved by the Secretary;
 - (4) contain all information required by the Secretary;
 - (5) be sworn to by the individual entitled to compensation or someone on his behalf; and
 - (6) except in case of death, be accompanied by a certificate of the physician of the employee stating the nature of the injury and the nature and probable extent of the disability.
- The Secretary may waive paragraphs (3)–(6) of this section for reasonable cause shown.

§ 8122. Time for making claim

[(a) An original claim for compensation—

- [(1) for death shall be made within 1 year after the death; and**
 - [(2) for disability shall be made within 60 days after the injury.**
- However, the Secretary of Labor may allow an original claim for disability to be made within 1 year after the injury for reasonable cause shown.]

(a) *An original claim for compensation for disability or death must be filed within 3 years after the injury or death. Compensation for disability or death, including medical care in disability cases, may not be allowed if claim is not filed within that time unless—*

(1) *the immediate superior had actual knowledge of the injury or death within 30 days. The knowledge must be such to put the immediate superior reasonably on notice of an on-the-job injury or death; or*

(2) *written notice of injury or death as specified in section 8119 of this title was given within 30 days.*

(b) *In a case of latent disability, the time for filing claim does not begin to run until the employee has a compensable disability and is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship of the compensable disability to his employment. In such a case, the time for giving notice of injury begins to run when the employee is aware, or by the exercise of reasonable diligence should have been aware, that his condition is causally related to his employment, whether or not there is a compensable disability.*

[(c) The Secretary may waive compliance with the requirements of this subchapter for giving notice of injury and for filing claim for compensation for disability or death if—

[(1) a claim is filed within 5 years after the injury or death; and

[(2) the Secretary finds—

[(A) that the failure to comply was due to circumstances beyond the control of the individual claiming benefits; or

[(B) that the individual claiming benefits has shown sufficient cause or reason in explanation of, and material prejudice to the interest of the United States has not resulted from, the failure.]

(c) *The timely filing of a disability claim because of injury will satisfy the time requirements for a death claim based on the same injury.*

(d) *The time limitations in subsections [(a)-(c)] (a) and (b) of this section do not—*

(1) *begin to run against a minor until he reaches 21 years of age or has had a legal representative appointed; or*

(2) *run against an incompetent individual while he is incompetent and has no duly appointed legal representative[.]; or*

(3) *run against any individual whose failure to comply is excused by the Secretary on the ground that such notice could not be given because of exceptional circumstances.*

§ 8123. Physical examinations

(a) *An employee shall submit to examination by a medical officer of the United States, or by a physician designated or approved by the Secretary of Labor, after the injury and as frequently and at the times and places as may be reasonably required. The employee may have a physician designated and paid by him present to participate in the examination. If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.*

(b) An employee is entitled to be paid expenses incident to an examination required by the Secretary which in the opinion of the Secretary are necessary and reasonable, including transportation and loss of wages incurred in order to be examined. The expenses, when authorized or approved by the Secretary, are paid from the Employees' Compensation Fund.

(c) The Secretary shall fix the fees for examinations held under this section by physicians not employed by or under contract to the United States to furnish medical services to employees. The fees, when authorized or approved by the Secretary, are paid from the Employees' Compensation Fund.

(d) If an employee refuses to submit to or obstructs an examination, his right to compensation under this subchapter is suspended until the refusal or obstruction stops. Compensation is not payable while a refusal or obstruction continues, and the period of the refusal or obstruction is deducted from the period for which compensation is payable to the employee.

§ 8124. Findings and award; hearings

(a) The Secretary of Labor shall determine and make a finding of facts and make an award for or against payment of compensation under this subchapter after—

(1) considering the claim presented by the beneficiary and the report furnished by the immediate superior; and

(2) completing such investigation as he considers necessary.

(b)(1) Before review under section 8128(a) of this title, a claimant for compensation not satisfied with a decision of the Secretary under subsection (a) of this section is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his claim before a representative of the Secretary. At the hearing, the claimant is entitled to present evidence in further support of his claim. Within 30 days after the hearing ends, the Secretary shall notify the claimant in writing of his further decision and any modifications of the award he may make and of the basis of his decision.

(2) In conducting the hearing, the representative of the Secretary is not bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 554 of this title except as provided by this subchapter, but may conduct the hearing in such manner as to be ascertain the rights of the claimant. For this purpose, he shall receive such relevant evidence as the claimant adduces and such other evidence as he determines necessary or useful in evaluating the claim.

§ 8125. Misbehavior at proceedings

If an individual—

(1) disobeys or resists a lawful order or process in proceedings under this subchapter before the Secretary of Labor or his representative; or

(2) misbehaves during a hearing or so near the place of hearing as to obstruct it;

the Secretary or his representative shall certify the facts to the district court having jurisdiction in the place where he is sitting. The court, in a summary manner, shall hear the evidence as to the acts com-

plained of and if the evidence warrants, punish the individual in the same manner and to the same extent as for a contempt committed before the court, or commit the individual on the same conditions as if the forbidden act had occurred with reference to the process of or in the presence of the court.

§ 8126. Subpenas; oaths; examination of witnesses

The Secretary of Labor, on any matter within his jurisdiction under this subchapter, may—

- (1) issue subpenas for and compel the attendance of witnesses within a radius of 100 miles;
- (2) administer oaths;
- (3) examine witnesses; and
- (4) require the production of books, papers, documents, and other evidence.

§ 8127. Representation; attorneys' fees

(a) A claimant may authorize an individual to represent him in any proceeding under this subchapter before the Secretary of Labor.

(b) A claim for legal or other services furnished in respect to a case, claim, or award for compensation under this subchapter is valid only if approved by the Secretary.

§ 8128. Review of award

(a) The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review may—

- (1) end, decrease, or increase the compensation previously awarded; or
- (2) award compensation previously refused or discontinued.

(b) The action of the Secretary or his designee in allowing or denying a payment under this subchapter is—

- (1) final and conclusive for all purposes and with respect to all questions of law and fact; and
- (2) not subject to review by another official of the United States or by a court by mandamus or otherwise.

Credit shall be allowed in the accounts of a certifying or disbursing official for payment in accordance with that action.

§ 8129. Recovery of overpayments

(a) When an overpayment has been made to an individual under this subchapter because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled. If the individual dies before the adjustment is completed, adjustment shall be made by decreasing later benefits payable under this subchapter with respect to the individual's death.

(b) Adjustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) A certifying or disbursing official is not liable for an amount certified or paid by him when—

(1) adjustment or recovery of the amount is waived under subsection (b) of this section; or

(2) adjustment under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.

§ 8130. Assignment of claim

An assignment of a claim for compensation under this subchapter is void. Compensation and claims for compensation are exempt from claims of creditors.

§ 8131. Subrogation of the United States

(a) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability on a person other than the United States to pay damages, the Secretary of Labor may require the beneficiary to—

(1) assign to the United States any right of action he may have to enforce the liability or any right he may have to share in money or other property received in satisfaction of that liability; or

(2) prosecute the action in his own name.

An employee required to appear as a party or witness in the prosecution of such an action is in an active duty status while so engaged.

(b) A beneficiary who refuses to assign or prosecute an action in his own name when required by the Secretary is not entitled to compensation under this subchapter.

(c) The Secretary may prosecute or compromise a cause of action assigned to the United States. When the Secretary realizes on the cause of action, he shall deduct therefrom and place to the credit of the Employees' Compensation Fund the amount of compensation already paid to the beneficiary and the expense of realization or collection. Any surplus shall be paid to the beneficiary and credited on future payments of compensation payable for the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a settlement or recovery remaining after the expenses thereof have been deducted.

(d) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in the Panama Canal Company to pay damages under the law of a State, a territory or possession of the United States, the District of Columbia, or a foreign country, compensation is not payable until the individual entitled to compensation—

(1) releases to the Panama Canal Company any right of action he may have to enforce the liability of the Panama Canal Company; or

(2) assigns to the United States any right he may have to share in money or other property received in satisfaction of the liability of the Panama Canal Company.

§ 8132. Adjustment after recovery from a third person

If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in

a person other than the United States to pay damages, and a beneficiary entitled to compensation from the United States for that injury or death receives money or other property in satisfaction of that liability as a result of suit or settlement by him or in his behalf, the beneficiary, after deducting therefrom the costs of suit and a reasonable attorney's fee, shall refund to the United States the amount of compensation paid by the United States and credit any surplus on future payments of compensation payable to him for the same injury. *No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or his designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States.* The amount refunded to the United States shall be credited to the Employees' Compensation Fund. If compensation has not been paid to the beneficiary, he shall credit the money or property on compensation payable to him by the United States for the same injury. However, the beneficiary is entitled to retain, *as a minimum*, at least one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted[, plus]; *and in addition to this minimum and at the time of distribution*, an amount equivalent to a reasonable attorney's fee proportionate to the refund to the United States.

§ 8133. Compensation in case of death

(a) If death results from an injury sustained in the performance of duty, the United States shall pay a monthly compensation equal to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

(1) To the widow or widower, if there is no child, [45] 50 percent.

(2) To the widow or widower, if there is a child, [40] 45 percent and in addition 15 percent for each child not to exceed a total of 75 percent for the widow or widower and children.

(3) To the children, if there is no widow or widower, [35] 40 percent for one child and 15 percent additional for each additional child not to exceed a total of 75 percent, divided among the children share and share alike.

(4) To the parents, if there is no widow, widower, or child, as follows—

(A) 25 percent if one parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent;

(B) 20 percent to each if both were wholly dependent; or

(C) a proportionate amount in the discretion of the Secretary of Labor if one or both were partly dependent.

If there is a widow, widower, or child, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of 75 percent.

(5) To the brothers, sisters, grandparents, and grandchildren, if there is no widow, widower, child, or dependent parent[,], as follows—

(A) 20 percent if one was wholly dependent on the employee at the time of death;

(B) 30 percent if more than one was wholly dependent, divided among the dependents share and share alike; or

(C) 10 percent if no one is wholly dependent but one or more is partly dependent, divided among the dependents share and share alike.

If there is a widow, widower, or child, or dependent parent, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, children, and dependent parents, will not exceed a total of 75 percent.

(b) The compensation payable under subsection (a) of this section is paid from the time of death until—

(1) a widow or widower dies or remarries before reaching age 60;

[(2) a widower dies or remarries or becomes capable of self-support;]

[(3)] (2) a child, a brother, a sister, or a grandchild [dies or marries] dies, marries, or becomes 18 years of age, or if over age 18 and incapable of self-support becomes capable of self-support; or

[(4)] (3) a parent or grandparent dies [or marries] dies, marries, or ceases to be dependent.

Notwithstanding paragraph [(3)] (2) of this subsection, compensation payable to or for a child, a brother or sister, or [a] grandchild that would otherwise end because the child, brother or sister, or grandchild has reached 18 years of age shall continue if he is a student as defined by section 8101 of this title at the time he reaches 18 years of age for so long as he continues to be such a student or until he marries. A widow or widower who has entitlements to benefits under this title derived from more than one husband or wife shall elect one entitlement to be utilized.

(c) On the cessation of compensation under this section to or on account of an individual, the compensation of the remaining individuals entitled to compensation for the unexpired part of the period during which their compensation is payable, is that which they would have received if they had been the only individuals entitled to compensation at the time of the death of the employee.

(d) When there are two or more classes of individuals entitled to compensation under this section and the apportionment of compensation under this section would result in injustice, the Secretary may modify the apportionment to meet the requirements of the case.

(e) In computing compensation under this section, the monthly pay is deemed not less than the minimum rate of basic pay for GS-2. However, the total monthly compensation may not exceed—

(1) the monthly pay computed under section 8114 of this title, except for increases authorized by section 8146a of this title; or

(2) 75 percent of the monthly pay of the maximum rate of basic pay for GS-15.

(f) Notwithstanding any funeral and burial expenses paid under section 8134, there shall be paid a sum of \$200 to the personal representative of a deceased employee within the meaning of section 8101 (1) of this title for reimbursement of the costs of termination of the decedent's status as an employee of the United States.

§ 8134. Funeral expenses; transportation of body

(a) If death results from an injury sustained in the performance of duty, the United States shall pay, to the personal representative of the deceased or otherwise, funeral and burial expenses not to exceed \$800, in the discretion of the Secretary of Labor.

(b) The body of an employee whose home is in the United States, in the discretion of the Secretary may be embalmed and transported in a hermetically sealed casket to his home or last place of residence at the expense of the Employees' Compensation Fund if—

(1) the employee dies from—

(A) the injury while away from his home or official station or outside the United States; or

(B) from other causes while away from his home or official station for the purpose of receiving medical or other services, appliances, supplies, or examination under this subchapter; and

(2) the relatives of the employee request the return of his body.

If the relatives do not, request the return of the body of the employee, the Secretary may provide for its disposition and incur and pay from the Employees' Compensation Fund the necessary and reasonable transportation, funeral, and burial expenses.

§ 8135. Lump-sum payment

(a) The liability of the United States for compensation to a beneficiary in the case of death or of permanent total or permanent partial disability may be discharged by a lump-sum payment equal to the present value of all future payments of compensation computed at 4 percent true discount compounded annually if—

(1) the monthly payment to the beneficiary is less than **[\$5]** \$50 a month;

(2) the beneficiary is or is about to become a nonresident of the United States; or

(3) the Secretary of Labor determines that it is for the best interest of the beneficiary.

The probability of the death of the beneficiary before the expiration of the period during which he is entitled to compensation shall be determined according to the **[American Experience Table of Mortality]** *most current United States Life Tables, as developed by the United States Department of Health, Education, and Welfare, which shall be updated from time to time*, but the lump-sum payment to a widow or widower of the deceased employee may not exceed 60 months' compensation. The probability of the happening of any other contingency affecting the amount or duration of compensation shall be disregarded.

(b) On remarriage *before reaching age 60*, a widow or widower entitled to compensation under section 8133 of this title, shall be paid a lump sum equal to twenty-four times the monthly compensation payment (excluding compensation on account of another individual) to which he was entitled immediately before the remarriage.

§ 8136. Initial payments outside the United States

If an employee is injured outside the continental United States, the Secretary of Labor may arrange and provide for initial payment of

compensation and initial furnishing of other benefits under this subchapter by an employee or agent of the United States designated by the Secretary for that purpose in the locality in which the employee was employed or the injury incurred.

§ 8137. Compensation for noncitizens and nonresidents

(a) When the Secretary of Labor finds that the amount of compensation payable to an employee who is neither a citizen nor resident of the United States or Canada, or payable to a dependent of such an employee, is substantially disproportionate to compensation for disability or death payable in similar cases under local statute, regulations, custom, or otherwise at the place outside the continental United States or Canada where the employee is working at the time of injury, he may provide for payment of compensation on a basis reasonably in accord with prevailing local payments in similar cases by—

(1) the adoption or adaption of the substantive features, by a schedule or otherwise, of local workmen's compensation provisions or other local statute, regulation, or custom applicable in cases of personal injury or death; or

(2) establishing special schedules of compensation for injury, death, and loss of use of members and functions of the body for specific classes of employees, areas, and places.

Irrespective of the basis adopted, the Secretary may at any time—

(A) modify or limit the maximum monthly and total aggregate payments for injury, death, and medical or other benefits;

(B) modify or limit the percentages of the wage of the employee payable as compensation for the injury or death; and

(C) modify, limit, or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives, or groups entitled to payment under local statute or custom whether or not included in the classes of beneficiaries otherwise specified by this subchapter.

(b) In a case under this section, the Secretary or his designee may—

(1) make a lump-sum award in the manner prescribed by section 8135 of this title when he or his designee considers it to be for the best interest of the United States; and

(2) compromise and pay a claim for benefits, including a claim in which there is a dispute as to jurisdiction or other fact or a question of law.

Compensation paid under this subsection is instead of all other compensation from the United States for the same injury or death, and a payment made under this subsection is deemed compensation under this subchapter and is satisfaction of all liability of the United States in respect to the particular injury or death.

(c) The Secretary may delegate to an employee or agency of the United States, with such limitations and right of review as he considers advisable, authority to process, adjudicate, commute by lump-sum award, compromise, and pay a claim or class of claims for compensation, and to provide other benefits, locally, under this section, in accordance with such regulations and instructions as the Secretary considers necessary. For this purpose, the Secretary may provide or transfer funds, including reimbursement of amounts paid under this subchapter.

(d) The Secretary may waive the application of this subchapter in whole or in part and for such period or periods as he may fix if he finds that—

(1) conditions prevent the establishment of facilities for processing and adjudicating claims under this section; or

(2) claimants under this section are alien enemies.

(e) The Secretary may apply this section retrospectively with adjustment of compensation and benefits as he considers necessary and proper.

§ 8138. Minimum limit modification for noncitizens and aliens

(a) Except as provided by subsection (b) of this section, the minimum limit on monthly compensation for disability under section 8112 of this title and the minimum limit on monthly pay on which death compensation is computed under section 8133 of this title do not apply in the case of a noncitizen employee, or a class or classes of noncitizen employees, who sustain injury outside the continental United States. The Secretary of Labor may establish a minimum monthly pay on which death compensation is computed in the case of a class or classes of such noncitizen employees.

(b) The President may remove or modify the minimum limit on monthly compensation for disability under section 8112 of this title and the minimum limit on monthly pay on which death compensation is computed under section 8133 of this title in the case of an alien employee, or a class or classes of alien employees, of the Canal Zone Government or the Panama Canal Company.

§ 8139. Employees of the District of Columbia

Compensation awarded to an employee of the government of the District of Columbia shall be paid in the manner provided by statute for the payment of the general expenses of the government of the District of Columbia.

§ 8140. Members of the Reserve Officers' Training Corps

(a) Subject to the provisions of this section, this subchapter applies to a member of, or applicant for membership in, the Reserve Officers' Training Corps of the Army, Navy, or Air Force who suffers disability or death from an injury incurred in line of duty—

(1) while engaged in a flight or in flight instruction under chapter 103 of title 10; or

(2) while performing authorized travel to or from, or while attending, field training or a practice cruise under chapter 103 of title 10.

(b) For the purpose of this section, an injury is incurred in line of duty only if it is the proximate result of the performance of military training by the member concerned, or of his travel to or from that training, during the periods specified by subsection (a)(2) of this section. A member or applicant for membership who contracts a disease or illness which is the proximate result of the performance of training during the periods specified by subsection (a)(2) of this section is considered for the purpose of this section to have been injured in line of duty during that period. Subject to review by the Secretary of Labor, the Secretary of the military department concerned, under regulations prescribed by him, shall determine whether

or not an injury, disease, or illness was incurred or contracted in line of duty and was the proximate result of the performance of military training by the member concerned or of his travel to or from that military training.

(c) In computing the compensation payable under this section, the monthly pay received by the injured or deceased individual, in cash and kind, is deemed \$150.

(d) The Secretary of the military department concerned shall cooperate fully with the Department of Labor in the prompt investigation and prosecution of a case involving the legal liability of a third party other than the United States.

(e) An individual may not receive disability benefits under this section while on active duty with the armed forces, but these benefits may be reinstated when the individual is released from that active duty.

(f) Expenses incurred by a military department in providing hospitalization, medical and surgical care, necessary transportation incident to that hospitalization or medical and surgical care, or in connection with a funeral and burial on behalf of an individual covered by subsection (a) of this section shall be reimbursed by the Secretary of Labor from the Employees' Compensation Fund in accordance with this subchapter. However, reimbursement may not be made for hospitalization or medical or surgical care provided an individual while attending field training or a practice cruise under chapter 103 of title 10.

§ 8141. Civil Air Patrol volunteers

(a) Subject to the provisions of this section, this subchapter applies to a volunteer civilian member of the Civil Air Patrol, except a Civil Air Patrol Cadet.

(b) In administering this subchapter for a member of the Civil Air Patrol covered by this section—

(1) the monthly pay of a member is deemed \$300 for the purpose of computing compensation for disability or death;

(2) the percentages applicable to payments under section 8133 of this title are—

(A) 45 percent for section 8133(a)(2) of this title, if the member dies fully or currently insured under subchapter II of chapter 7 of title 42, with no additional payments for a child or children while the widow or widower remains eligible for payments under section 8133(a)(2) of this title;

(B) 20 percent for section 8133(a)(3) of this title for one child and 10 percent additional for each additional child, but not to exceed a total of 75 percent, if the member died fully or currently insured under subchapter II of chapter 7 of title 42; and

(C) 25 percent for section 8133(a)(4) of this title, if one parent was wholly dependent on the deceased member at the time of his death and the other was not dependent to any extent; 16 percent to each, if both were wholly dependent; and if one was or both were partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(3) a payment may not be made under section 8133(a)(5) of this title;

(4) "performance of duty" means only active service, and travel to and from that service, rendered in performance or support of operational missions of the Civil Air Patrol under direction of the Department of the Air Force and under written authorization by competent authority covering a specific assignment and prescribing a time limit for the assignment; and

(5) the Secretary of Labor or his designee shall inform the Secretary of Health, Education, and Welfare, when a claim is filed and eligibility for compensation is established under section 8133(a) (2) or (3) of this title, and the Secretary of Health, Education, and Welfare shall certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under subchapter II of chapter 7 of title 42 at the time of his death.

(c) The Secretary of Labor or his designee may inform the Secretary of the Air Force or his designee when a claim is filed. The Secretary of the Air Force, on request of the Secretary of Labor, shall advise him of the facts concerning the injury and whether or not the member was rendering service, or engaged in travel to or from service, in performance or support of an operational mission of the Civil Air Patrol at the time of injury. This subsection does not dispense with the report of the immediate superior of the member required by section 8120 of this title, or other reports agreed on under that section.

§ 8142. Peace Corps volunteers

(a) For the purpose of this section, "volunteer" means—

(1) a volunteer enrolled in the Peace Corps under section 2504 of title 22;

(2) a volunteer leader enrolled in the Peace Corps under section 2505 of title 22; and

(3) an applicant for enrollment as a volunteer or volunteer leader during a period of training under section 2507(a) of title 22 before enrollment.

(b) Subject to the provisions of this section, this subchapter applies to a volunteer, except that entitlement to disability compensation payments does not commence until the day after the date of termination of his service as a volunteer.

(c) For the purpose of this subchapter—

(1) a volunteer is deemed receiving monthly pay at the minimum rate for GS-7;

(2) a volunteer leader referred to by section 2505 of title 22, or a volunteer with one or more minor children as defined in section 2504 of title 22, is deemed receiving monthly pay at the minimum rate for GS-11;

(3) an injury suffered by a volunteer when he is outside the several States and the District of Columbia is deemed proximately caused by his employment, unless the injury or disease is—

(A) caused by willful misconduct of the volunteer;

(B) caused by the volunteer's intention to bring about the injury or death of himself or of another; or

- (C) proximately caused by the intoxication of the injured volunteer; and
- (4) the period of service of an individual as a volunteer includes—
 - (A) any period of training under section 2507(a) of title 22 before enrollment as a volunteer; and
 - (B) the period between enrollment as a volunteer and the termination of service as a volunteer by the President or by death or resignation.

§ 8143. Job Corps enrollees; volunteers in service to America

(a) Subject to the provisions of this subsection, this subchapter applies to an enrollee in the Job Corps, except that compensation for disability does not begin to accrue until the day after the date on which the injured enrollee is terminated. In administering this subchapter for an enrollee covered by this subsection—

- (1) the monthly pay of an enrollee is deemed that received at the minimum rate for GS-2;
- (2) section 8113 (a) [, (b)] of this title applies to an enrollee; and
- (3) “performance of duty” does not include an act of an enrollee while absent from his assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from the post of duty) authorized by or under the direction and supervision of the Job Corps.

(b) This subchapter applies to a volunteer in service to America who receives either a living allowance or a stipend under part A of subchapter VIII of chapter 34 of title 42, with respect to that service and training, to the same extent as enrollees of the Job Corps under subsection (a) of this section. However, for the purpose of the computation described in subsection (a)(1) of this section, the monthly pay of a volunteer is deemed that received at the minimum rate for GS-7.

§ 8143a. Members of the National Teacher Corps

Subject to the provisions of this section, this subchapter applies to a member of the National Teacher Corps. In administering this subchapter for a member covered by this section—

- (1) “performance of duty” does not include an act of a member while—
 - (A) on authorized leave; or
 - (B) absent from his assigned post of duty, except while participating in an activity authorized by or under the direction or supervision of the Commissioner of Education; and
- (2) In computing compensation for disability or death, the monthly pay of a member is deemed his actual pay or that received at the minimum rate for GS-6, whichever is greater.

§ 8144. Student-employees

A student-employee as defined by section 5351 of this title who suffers disability or death as a result of personal injury arising out of and in the course of training, or incurred in the performance of duties in connection with that training, is considered for the purpose of this subchapter an employee who incurred the injury in the performance of duty.

§ 8145. Administration

The Secretary of Labor shall administer, and decide all questions arising under, this subchapter. He may—

- (1) appoint employees to administer this subchapter; and
- (2) delegate to any employee of the Department of Labor any of the powers conferred on him by this subchapter.

§ 8146. Administration for the Canal Zone and The Alaska Railroad

(a) The President, from time to time, may transfer the administration of this subchapter—

(1) so far as employees of the Canal Zone Government and of the Panama Canal Company are concerned to the Governor of the Canal Zone; and

(2) so far as employees of The Alaska Railroad are concerned to the general manager of The Alaska Railroad.

(b) When administration is transferred under subsection (a) of this section, the expenses incident to physical examinations which are payable under section 8123 of this title shall be paid from appropriations for the Canal Zone Government or for The Alaska Railroad or from funds of the Panama Canal Company, as the case may be, instead of from the Employees' Compensation Fund. The President may authorize the Governor of the Canal Zone and the general manager of The Alaska Railroad to pay the compensation provided by this subchapter, including medical, surgical, and hospital services and supplies under section 8103 of this title and the transportation and burial expenses under sections 8103 and 8134 of this title, from appropriations for the Canal Zone Government and for The Alaska Railroad, and these appropriations shall be reimbursed for the payments by transfer of funds from the Employees' Compensation Fund.

(c) The President may authorize the Governor of the Canal Zone to waive, at his discretion, the making of the claim required by section 8121 of this title in the case of compensation to an employee of the Canal Zone Government or of the Panama Canal Company for temporary disability, either total or partial.

(d) When administration is transferred under subsection (a) of this section to the general manager of The Alaska Railroad, the Secretary of Labor is not divested of jurisdiction and a claimant is entitled to appeal from the decision of the general manager of The Alaska Railroad to the Secretary of Labor. The Secretary on receipt of an appeal shall, or on his own motion may, review the decision of the general manager of The Alaska Railroad, and in accordance with the facts found on review may proceed under section 8128 of this title. The Secretary shall provide the form and manner of taking an appeal.

(e) The same right of appeal exists with respect to claims filed by employees of the Canal Zone Government and of the Panama Canal Company or their dependents in case of death, as is provided with respect to the claims of other employees to whom this subchapter applies, under section 8149 of this title. The Employees' Compensation Appeals Board referred to by section 8149 of this title has jurisdiction, under regulations prescribed by the Secretary, over appeals relating to claims of the employees or their dependents.

§ 8146a. Cost-of-living adjustment of compensation

(a) Each month the Secretary of Labor shall determine the percent change in the price index. Effective the first day of the [third] month which begins after the price index change equals a rise of at least 3 percent for 3 consecutive months over the price index for the latest base month, compensation payable on account of disability or death which occurred more than 1 year before that first day shall be increased by the percent rise in the price index (calculated on the highest level of the price index during the 3 consecutive months) adjusted to the nearest one-tenth of 1 percent.

(b) The [monthly compensation] *regular periodic compensation payments* after adjustment under this section shall be fixed at the nearest dollar. However, the [monthly] *regular periodic compensation* after adjustment shall reflect an increase of at least \$1.

(c) *This section shall be applicable to persons excluded by section 15 of the Federal Employees' Compensation Act Amendments of 1966 (P.L. 89-488) under the following statutes: Act of Feb. 15, 1934 (48 Stat. 351); Act of June 26, 1936 (49 Stat. 2035); Act of April 8, 1935 (49 Stat. 115); Act of July 25, 1942 (56 Stat. 710); P.L. 84-955 (Aug. 3, 1956); P.L. 77-784 (Dec. 2, 1942); P.L. 84-879 (Aug. 1, 1956); P.L. 80-896 (July 3, 1948); Act of September 8, 1959 (73 Stat. 469). Benefit payments to these persons shall initially be increased by the total percentage of the increases in the price index from the base month of July, 1966, to the next most recent base month following the effective date of this subsection.*

§ 8147. Employees' Compensation Fund

(a) There is in the Treasury of the United States the Employees' Compensation Fund which consists of sums that Congress, from time to time, may appropriate for or transfer to it, and amounts that otherwise accrue to it under this subchapter or other statute. The Fund is available without time limit for the payment of compensation and other benefits and expenses, except administrative expenses, authorized by this subchapter or any extension or application thereof, except as otherwise provided by this subchapter or other statute. The Secretary of Labor shall submit annually to the [Bureau of the Budget] *Office of Management and Budget* estimates of appropriations necessary for the maintenance of the Fund. For the purpose of this subsection, "administrative expenses" does not include expenses for legal services performed by or for the Secretary under sections 8131 and 8132 of this title.

(b) Before August 15 of each year, the Secretary shall furnish to each agency and instrumentality of the United States having an employee who is or may be entitled to compensation benefits under this subchapter or any extension or application thereof a statement showing the total cost of benefits and other payments made from the Employees' Compensation Fund during the preceding fiscal year on account of the injury or death of employees or individuals under the jurisdiction of the agency or instrumentality. Each agency and instrumentality shall include in its annual budget estimates for the next fiscal year a request for an appropriation in an amount equal to the costs. Sums appropriated pursuant to the request shall be deposited in the Treasury to the credit of the Fund within 30 days after they are available. An agency or instrumentality not dependent on an annual appropriation shall make the deposit required by this subsection

from funds under its control. If an agency or instrumentality (or part or function thereof) is transferred to another agency or instrumentality, the cost of compensation benefits and other expenses paid from the Fund on account of the injury or death of employees of the transferred agency or instrumentality (or part or function) shall be included in costs of the receiving agency or instrumentality.

(c) In addition to the contributions for the maintenance of the Employees' Compensation Fund required by this section, *the United States Postal Service*, or a mixed ownership corporation as defined by section 856 of title 31, or any other corporation or agency or instrumentality (or activity thereof) which is required by statute to submit an annual budget pursuant to or as provided by sections 841-869 of title 31, shall pay an additional amount for its fair share of the cost of administration of this subchapter as determined by the Secretary. With respect to these corporations, agencies, and instrumentalities, the charges billed by the Secretary under this section shall include an additional amount for these costs which shall be paid into the Treasury as miscellaneous receipts from the sources authorized and in the manner otherwise provided by this section.

§ 8148. Repealed

§ 8149. Regulations

The Secretary of Labor may prescribe rules and regulations necessary for the administration and enforcement of this subchapter including rules and regulations for the conduct of hearings under section 8124 of this title. The rules and regulations shall provide for an Employee's Compensation Appeals Board of three individuals designated or appointed by the Secretary with authority to hear and, subject to applicable law and the rules and regulations of the Secretary, make final decisions on appeals taken from determinations and awards with respect to claims of employees. In adjudicating claims under section 8146 of this title, the Secretary may determine the nature and extent of the proof and evidence required to establish the right to benefits under this subchapter without regard to the date of injury or death for which claim is made.

§ 8150. Effect on other statutes

(a) This subchapter does not affect the maritime rights and remedies of a master or member of the crew of a vessel.

(b) Section 8141 of this title and section 9441 of title 10 do not confer military or veteran status on any individual.

§ 8151. Civil service retention rights

(a) *In the event the individual resumes employment with the Federal Government, the entire time during which the employee was receiving compensation under this chapter shall be credited to the employee for the purposes of within-grade step increases, retention purposes, and other rights and benefits based upon length of service.*

(b) *Under regulations issued by the Civil Service Commission—*

(1) *the department or agency which was the last employer shall immediately and unconditionally accord the employee, if the injury or disability has been overcome within one year after the date of commencement of compensation or from the time compensation disability recurs if the recurrence begins after the injured employee resumes regular full-time employment with the United States, the right to resume his former or an equivalent position, as well as all other*

attendant rights which the employee would have had, or acquired, in his former position had he not been injured or disabled, and

(2) the department or agency which was the last employer shall, if the injury or disability is overcome within a period of more than one year after the date of commencement of compensation, make all reasonable efforts to place, and accord priority to placing, the employee in his former or equivalent position within such department or agency, or within any other department or agency.

(c) Section 3315a of title 5, United States Code, is repealed upon the effective date of this section.

SUBCHAPTER III.—LAW ENFORCEMENT OFFICERS NOT EMPLOYED BY THE UNITED STATES

§ 8191. Determination of eligibility

The benefits of this subchapter are available as provided in this subchapter to eligible law enforcement officers (referred to in this subchapter as "eligible officers") and their survivors. For the purposes of this subchapter, an eligible officer is any person who is determined by the Secretary of Labor in his discretion to have been on any given occasion—

(1) a law enforcement officer and to have been engaged on that occasion in the apprehension or attempted apprehension of any person—

(A) for the commission of a crime against the United States, or

(B) who at that time was sought by a law enforcement authority of the United States for the commission of a crime against the United States, or

(C) who at that time was sought as a material witness in a criminal proceeding instituted by the United States; or

(2) a law enforcement officer and to have been engaged on that occasion in protecting or guarding a person held for the commission of a crime against the United States or as a material witness in connection with such a crime; or

(3) a law enforcement officer and to have been engaged on that occasion in the lawful prevention of, or lawful attempt to prevent, the commission of a crime against the United States; and to have been on that occasion not an employee as defined in section 8101(1), and to have sustained on that occasion a personal injury for which the United States would be required under subchapter I of this chapter to pay compensation if he had been on that occasion such an employee engaged in the performance of his duty. No person otherwise eligible to receive a benefit under this subchapter because of the disability or death of an eligible officer shall be barred from the receipt of such benefit because the person apprehended or attempted to be apprehended by such officer was then sought for the commission of a crime against a sovereignty other than the United States.

§ 8192. Benefits

(a) Benefits in event of injury

The Secretary of Labor shall furnish to any eligible officer the benefits to which he would have been entitled under subchapter I of this chapter if, on the occasion giving rise to his eligibility, he had been an

employee as defined in section 8101(1) engaged in the performance of his duty, reduced or adjusted as the Secretary of Labor in his discretion may deem appropriate to reflect comparable benefits, if any, received by the officer (or which he would have been entitled to receive but for this subchapter) by virtue of his actual employment on that occasion. When an enforcement officer has contributed to a disability compensation fund, the reduction of Federal benefits provided for in this subsection is to be limited to the amount of the State or local government benefits which bears the same proportion to the full amount of such benefits as the cost or contribution paid by the State or local government bears to the cost of disability coverage for the individual officer.

(b) Benefits in event of death

The Secretary of Labor shall pay to any survivor of an eligible officer the difference, as determined by the Secretary in his discretion, between the benefits to which that survivor would be entitled if the officer had been an employee as defined in section 8101(1) engaged in the performance of his duty on the occasion giving rise to his eligibility, and the comparable benefits, if any, received by the survivor (or which that survivor would have been entitled to receive but for this subchapter) by virtue of the officer's actual employment on that occasion. When an enforcement officer has contributed to a survivor's benefit fund, the reduction of Federal benefits provided for in this subsection is to be limited to the amount of the State or local government benefits which bears the same proportion to the full amount of such benefits as the cost or contribution paid by the State or local government bears to the cost of survivor's benefits coverage for the individual officer.

§ 8193. Administration

(a) Definitions and rules of construction

For the purpose of this subchapter—

(1) The term "Attorney General" includes any person to whom the Attorney General has delegated any function pursuant to subsection (b) of this section.

(2) The term "Secretary of Labor" includes any person to whom the Secretary of Labor has delegated any function pursuant to subsection (b) of this section.

(b) Delegation

(1) The Attorney General may delegate to any division, officer, or employee of the Department of Justice any function conferred upon the Attorney General by this subchapter.

(2) The Secretary of Labor may delegate to any bureau, officer, or employee of the Department of Labor any function conferred upon the Secretary of Labor by this subchapter.

(c) Applications

An application for any benefit under this subchapter may be made only—

(1) to the Secretary of Labor

(2) by

(A) any eligible officer or survivor of an eligible officer,

(B) any guardian, personal representative, or other person legally authorized to act on behalf of an eligible officer, his estate, or any of his survivors, or

(C) any association of law enforcement officers which is acting on behalf of an eligible officer or any of his survivors;

(3) within five years after the injury or death; and

(4) in such form as the Secretary of Labor may require.

(d) Consultation with Attorney General and other agencies

The Secretary of Labor may refer any application received by him pursuant to this subchapter to the Attorney General for his assistance, comments and advice as to any determination required to be made pursuant to paragraph (1), (2), or (3) of section 8191. To insure that all Federal assistance under this subchapter is carried out in a coordinated manner, the Secretary of Labor is authorized to request any Federal department or agency to supply any statistics, data, or any other materials he deems necessary to carry out his functions under this subchapter. Each such department or agency is authorized to cooperate with the Secretary of Labor and, to the extent permitted by law, to furnish such materials to him.

(e) Cooperation with State agencies

The Secretary of Labor shall cooperate fully with the appropriate State and local officials, and shall take all other practicable measures, to assure that the benefits of this subchapter are made available to eligible officers and their survivors with a minimum of delay and difficulty.

(e) Appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

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